

The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

JOHN THEISS,

Plaintiff,

vs.

SAN JUAN CONSTRUCTION, INC., a
Colorado corporation,

Defendant.

No. 2:19-cv-01682 RSM

**STIPULATED MOTION TO CONTINUE
TRIAL DATE AND RELATED PRETRIAL
DATES**

NOTE ON MOTION CALENDAR:

September 29, 2020

I. INTRODUCTION AND RELIEF REQUESTED

The Parties, by and through their attorneys of record, hereby submit this Stipulated Motion to Continue Trial Date and Related Pretrial Deadlines. The Parties jointly request an Order continuing the current April 19, 2021 trial date until July 19, 2021, or as close a date thereto as the Court's schedule permits. The Parties additionally request that all pretrial deadlines be extended as set forth below. This is the first request for a continuance of trial in this case, and is requested for good cause as set forth below.

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TRIAL DATE AND RELATED PRETRIAL
DATES - 1
(No. 2:19-cv-01682 RSM)**

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
P.C.
1201 Third Avenue, Suite 5150 | Seattle, WA 98101
Phone: 206-693-7057 | Fax: 206-693-7058

II. STATEMENT OF FACTS

1. Basis for Continuance

After the Court denied Defendant's motion to transfer venue, the Parties engaged in extended settlement discussions and scheduled a mediation to be conducted in early Spring 2020 in Seattle. With the onset of the COVID-19 pandemic, the mediation was postponed by Defendant with the hope that the pandemic would be sufficiently brief to allow an in-person mediation and related travel. The Parties have now returned to the negotiating table, and have rescheduled their mediation, which is to be conducted by Judge William Downing (Ret.) in October or November. Both Parties believe the prospects for settlement will be enhanced if neither side is first compelled to incur the expense and other burdens associated with discovery. The Parties have therefore provisionally agreed to delay conducting discovery until after the mediation has been conducted. However, if the mediation is not successful, the Parties believe that each will be unable to timely complete discovery and prepare for the trial that is currently scheduled for April 2021. Moreover, the Parties are mindful that the Court is itself challenged by the COVID-19 pandemic, and that it is unlikely a civil trial can be conducted in April 2021 in any event. The Parties therefore believe the interests of justice and judicial economy are best served by delaying the trial date by approximately 90 days, and by otherwise facilitating the Parties' efforts to resolve their dispute by mediation and without further burdening the Court. The Parties therefore join in respectfully asking the Court to postpone the April 2021 bench trial date and all associated litigation calendar deadlines by approximately 90 days as set forth in the proposed schedule below. The parties believe and ask the Court to find that such a delay is in the interest of justice and is being sought for good cause.

The Parties have not previously asked the Court for any extension or modification to the

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1 trial calendar in this matter, and are confident that no further delay will be required or requested.

2 **2. Request for Continuance**

3 Based on the facts and circumstances described above, the Parties, through their respective
4 counsel of record, hereby move the Court for an order as follows:

5 The trial date and related pre-trial deadlines shall be extended as set forth below:

Deadline	Current Date	Proposed New Date
Disclosure of expert testimony	October 21, 2020	January 19, 2021
Deadline for filing motions related to discovery	November 20, 2020	February 18, 2021
Discovery completed by	December 21, 2020	March 21, 2021
Dispositive motions deadline	January 19, 2021	April 19, 2021
Mediation per LCR 39.1	March 5, 2021	June 3, 2021
Motion in limine deadline	March 22, 2021	June 20, 2021
Agreed pretrial order due	April 7, 2021	July 6, 2021
Trial briefs/proposed findings and conclusions/trial exhibits	April 14, 2021	July 13, 2021
Trial Date	April 19, 2021	July 19, 2021

19 **I. LEGAL AUTHORITY**

20 Under Fed.R.Civ.P. 16, the case schedule may be extended where good cause exists and
21 the delay is not caused by the carelessness or less than reasonably diligent action by moving
22 counsel. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992). Here, the Parties
23 were actively litigating this matter until they mutually agreed to a time-out solely as a result of the
24 COVID-19 pandemic. If not for the pandemic, the parties would either have settled this case in
25 April 2020 or would immediately have conducted discovery if the mediation did not result in a

settlement. The Parties are now ready to return their attentions to this matter, but desire additional time in which to determine whether a negotiated settlement may relieve the Parties and the Court from further expense and burdens associated with continued litigation.

II. CONCLUSION

For the above reasons, the Parties jointly request that the Court continue the trial date to July 19, 2021 or as soon thereafter as the Court has available, and to continue the related pre-trial deadlines as set forth above.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

ARETE LAW GROUP PLLC

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

/s/ Denise L. Ashbaugh

Denise L. Ashbaugh, WSB No. 28512
Jonah O. Harrison, WSB No. 34576
Arete Law Group PLLC
1218 Third Avenue, Suite 2100
Seattle, WA 98101
Phone: 206-428-3250
Fax: 206-428-3251
Email: jharrison@aretelaw.com
dashbaugh@aretelaw.com

Attorneys for Plaintiff

/s/ *Laurence A. Shapero*

Laurence A. Shapero, WSBA No. 31301
Ogletree, Deakins, Nash, Smoak & Stewart,
P.C.
1201 Third Avenue, Suite 5150
Seattle, WA 98101
Phone: 206-693-7057
Fax: 206-693-7058
Email: laurence.shapero@ogletree.com

Michelle B. Muhleisen, *Pro Hac Vice*
Ogletree, Deakins, Nash, Smoak & Stewart
2000 South Colorado Boulevard
Tower Three, Suite 900
Denver, CO 80222
Phone: 303-764-6825
Email: michelle.muhleisen@ogletree.com

Attorneys for Defendant

ORDER

Pursuant to the above stipulation, it is hereby ORDERED that:

1. The Stipulation for a trial continuance is GRANTED.
2. The trial in this matter shall be set for July 19, 2021.
3. The following case schedule deadlines are continued as follows:

Deadline	Current Date	Proposed New Date
Disclosure of expert testimony	October 21, 2020	January 19, 2021
Deadline for filing motions related to discovery	November 20, 2020	February 18, 2021
Discovery completed by	December 21, 2020	March 21, 2021
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Trial Date	April 19, 2021	July 19, 2021

IT IS SO ORDERED

DATED this 30th day of September, 2020.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2020 I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

/s/Denise A. Campbell
Denise A. Campbell, Practice Assistant

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